

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Numbering Resources Optimization

Administration of the North American
Numbering Plan

Millicorp Petition for Limited Waiver of
Section 52.15(g)(2)(i) of the Commission's
Rules Regarding Access to Numbering
Resources

CC Docket No. 99-200

**COMMENTS OF SECURUS TECHNOLOGIES, INC.
OPPOSING PETITION OF MILLICORP, LLC
FOR WAIVER OF NUMBERING RULE**

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Securus Technologies, Inc. (“Securus”), through counsel and pursuant to the Commission’s Public Notice,¹ submits these comments in opposition to petition of Millicorp, LLC (“Millicorp”) for waiver of Commission Rule 52.15(g)(2)(i) (the “Millicorp Petition”).² The Millicorp Petition should not be granted, because there is neither good cause for nor a public benefit in granting Millicorp direct access to numbering resources.³ Millicorp operates a call re-routing, or “call diversion”, scheme called “ConsCallHome” which circumvents inmate telephone security systems, presents a grave risk to both prison security and public safety, and must not be permitted to operate in America’s correctional facilities. Giving Millicorp direct access to numbering resources would only advance a dangerous scheme that should not be encouraged or tolerated.

I. STANDARD OF REVIEW

The standard of review for a waiver of a Commission rule is not in dispute and stems from 47 C.F.R. § 1.3:

The Commission may waive its rules **when good cause is demonstrated**. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In doing so, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Commission rules are presumed valid, however, and an applicant for waiver bears a heavy burden. **Waiver of the Commission’s rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.**

¹ CC Docket No. 99-200, *Wireline Competition Bureau Seeks Comment on SmartEdgeNet, LLC and Millicorp, LLC Petitions for Limited Waiver of Commission’s Rules Regarding Access to Telephone Numbers*, DA 12-633 (April 24, 2012).

² CC Docket No. 99-200, Millicorp Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission’s Rules Regarding Numbering Resources (Mar. 14, 2012), *available at* <http://apps.fcc.gov/ecfs/document/view?id=7021900602> (last visited May 3, 2012).

³ Securus takes no position on whether any other petitioner should be granted a waiver.

In the Matter of Admin. of the N. Am. Numbering Plan, Order, 20 FCC Rcd. 2957, 2958-59 ¶ 3 (2005) (“*SBCIS Waiver Order*”) (citing 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert denied*, 409 U.S. 1027 (1972) (emphasis added)).

II. ARGUMENT

Millicorp admits that it operates a call re-routing or diversion scheme called ConsCallHome. *See* Millicorp Petition at 2. Call diversion schemes, which are provided by Millicorp and many other entities, re-route inmate-initiated calls from prisons to unknown, untraceable terminating telephone numbers. The serious safety and security issues created by call diversion schemes like ConsCallHome are explained in the Securus Petition for Declaratory Ruling (“Securus Petition”), and its subsequent *ex parte* letters, which are under consideration in WC Docket No. 09-144. The Securus Petition, as well as its Reply Comments and its associated *ex parte* letters, are filed herewith.

The threat to public safety and prison security is obvious with a call diversion scheme: the inmate could be calling anyone, anywhere, and the authorities would have no ability to know whom the inmate called. Securus Petition at 6-9. Some call diversion schemes even advertise the ability to contact blocked numbers, *id.* at 8 — in other words, call diverters expressly advertise the ability to circumvent secure prison telephone systems.

In short, the Securus Petition demonstrates why Millicorp should not be granted direct access to numbering resources. Those resources would undoubtedly be used in the ConsCallHome call diversion scheme. Indeed, Millicorp unapologetically requests numbers for ConsCallHome. Millicorp Petition at 2. Securus urges the Commission not to aid in this scheme by granting Millicorp a waiver of any numbering rule.

In addition, Millicorp mischaracterizes its service in its Petition. Millicorp compares the ConsCallHome arrangement to services provided by interconnected Voice over Internet Protocol (“VoIP”) providers like Vonage,⁴ but the Securus Petition and its subsequent *ex parte* letters demonstrate that ConsCallHome is not interconnected VoIP. Rather, that arrangement is “VoIP in the middle.” WC Docket No. 09-144, Reply Comments of Securus at 8 (Sept. 10, 2009); *see also* Securus December 14, 2009 *ex parte* at 3-4.

Securus has applied the Commission’s definition of “interconnected VoIP service”, codified at 47 C.F.R. § 9.3, and has demonstrated that Millicorp cannot satisfy three of the four criteria in that definition. *E.g.*, WC Docket No. 09-144, Securus December 14, 2009 *ex parte* at 3-4; Securus February 16, 2010 *ex parte* at 1-3. Millicorp’s call diversion arrangements do not require a broadband connection and do not require IP-compatible customer premises equipment. In addition, the ConsCallHome arrangement cannot be used for the initiation of calls from a subscriber’s phone⁵ to the public switched telephone network (“PSTN”). *Id.*; *see also* Securus February 16, 2010 *ex parte* at 1; Securus August 2, 2011 *ex parte* at 14. Although the Commission may find it appropriate for an interconnected VoIP provider like Vonage to be granted a waiver of Section 52.15(g)(2)(i), that decision cannot apply to the non-interconnected, “VoIP in the middle” arrangement that Millicorp uses.

Moreover, no “special circumstances” support a waiver for Millicorp. The special circumstances identified by the Commission in the *SBCIS Waiver Order* include a need to “expedite the implementation of IP-enabled services that interconnect to the PSTN” and to

⁴ Millicorp Petition at 4 n.8.

⁵ To the best of Securus’s knowledge, the subscriber is always the non-incarcerated person. The subscriber pays, on a monthly basis, for an unregistered telephone number that is local to the correctional facility, and tells the inmate to dial that number. Securus Petition at 7 & Exs. 1-3. ConsCallHome is not a residential local exchange or interexchange service. Securus December 14, 2009 *ex parte* at 3.

“enable SBCIS to deploy ... advanced services that benefit American consumers.” *SBCIS Waiver Order* ¶ 4. Here, Millicorp’s aim is not to deploy advanced services or to interconnect to the PSTN. Its aim is simply to re-route inmate calls to untraceable terminating phone numbers using unregistered originating phone numbers.⁶ Millicorp’s waiver request plainly lacks any special circumstances that would satisfy the Commission’s *SBCIS Waiver Order* standard.

Finally, Millicorp’s offer to comport with the conditions set forth in the *SBCIS Waiver Order*, Millicorp Petition at 6, does not justify granting the Petition. Specifically, Millicorp’s commitment to the “facilities readiness” condition rings hollow when Millicorp essentially admits that it does not have interconnection agreements with any carriers⁷ and is actively trying to cut out intermediary carriers through its waiver request. *Id.* at 3, 5. Millicorp’s offer is impossible to fulfill and thus is meaningless.

Millicorp can show neither good cause nor a public interest benefit to support its Petition. In fact, grant of a waiver would harm the public interest. For these reasons, the Commission should deny the Millicorp Petition.

⁶ Millicorp references its new service called “Millitalk” at page 2 of the Petition. Securus counsel has visited the www.millitalk.com site but is unable to discern how that service is configured or what facilities it requires other than Apple devices. Securus does note, however, that the device to be used apparently is not furnished by Millicorp, and thus Millitalk likely does not satisfy at least one of the criteria in 47.C.F.R. § 9.3.

⁷ Millicorp “commits to complying with any clarification of this [facilities readiness] requirement issued by the Commission within a reasonable time[.]” *Id.* at 6. It then quotes comments of Neutral Tandem regarding “‘ILEC tandem interconnection’,” apparently in order to suggest that Millicorp will purchase or build facilities to establish such interconnection. *Id.* at 6 n.17. Presently, however, all Millicorp buys are numbers, *id.* at 2, and VoIP routers. Securus Petition at 7. Moreover, it is unclear what it means to comply “with any clarification” of a rule; will Millicorp only comply with a clarified version of the facilities readiness requirement in the event the Commission issues one?

III. CONCLUSION

For all these reasons, the Commission should deny the Petition.

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Respectfully submitted,

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